

REMARKS

Drawing Objections

The drawings were objected to under 37 CFR 1.83(a) for the lack of inclusion of the “clamp means” of claim 4. The “clamp means” limitation of claim 4 has been cancelled, thereby mooted the objection to the drawings. No new matter has been added.

Claim Objections

Claim 1 was objected to an informality in the form of an obvious redundant wording error. Applicant respectfully submits that claim 1 has been amended as suggested by the Examiner to correct the error in the claim, thereby mooted the objection.

35 U.S.C. § 112 Rejections

Claim 1 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 1 was rejected for the lack of a limitation defining the second boundary gap. Claim 1 has been amended to include that the gap is defined by the middle member and the inner mesh member. No new matter has been added. Applicant respectfully submits that the amendment to claim 1 clarifies that a second gap is provided between the inner mesh member and the middle member and thus, Applicant respectfully requests reconsideration and withdrawal of the present rejection.

35 U.S.C. § 103

Claims 1, 2, 6, 8, 10, 12 and 13 have been rejected under 35 U.S.C. § 103 as allegedly being anticipated over Chen (U.S. Patent No. 4,611,450) in view of Sacks (U.S. Patent No. 6,820,387). Applicant respectfully traverses.

Independent claim 1 specifically recites that the outer mesh member itself defines "at least two outwardly projecting screed ridges extending a length of said outer wire mesh member." In other words, as taught in Applicant's specification, the wire mesh member includes impressions which result in raised ridges extending away from the middle member a length of the outer face of the outer mesh member. These outwardly extending ridges serve as "screeds" that allow a user to cut and smooth a material applied to the mesh. This aspect of this feature of the invention is fully set forth in the specification in several places, including paragraphs [0052], [0053], and [0059].

[0052] In view of the fact that there is a ½ inch gap 115, see Figure 1, between each wire mesh members 101, 102 and the middle member 110, one inch of finishing material should result in the wire mesh being embedded about half way therein. In addition, given that the wire mesh was provided with two ½ inch deep V-shaped impressions 105, 106, the apex 150 of the impressions serves as a visual screed for the application of the finishing materials and then as a mechanical screed (allowing a 48-inch blade to be slid up and down the apexes of the impressions) to ensure the wall is cut flat and ready to be finished with, for example, a stucco look.

[0053] Notably, as will be appreciated by one of ordinary skill in the art, the wall can be erected with the impressions running horizontally (see Figure 1) or vertically (see Figure 5). In either case, the panel can be cut with a screed blade running along the apexes of the V-shaped impressions.

* * * *

[0059] . . . Figure 7 also shows a 1 3/16-inch layer of concrete 330 as a finishing material applied to both sides of the panel and smoothed using the three built in screed notches 304, 305, and 306.

By contrast, Sacks discloses the use of a wire lath member having V-shaped impressions, or trusses, that extend inwardly – e.g., towards the studs or framing members. This orientation of the impressions is clear from the Figures as well as the written description:

"Lath 10 may be applied over framing members, which are typically 16 inches or 24 inches on center. Lath 10 can be attached to the framing members at the bottom of trusses 15." '387 Patent, col. 7, lines 7-9; *see also* Figs. 6 and 8.

"Lath 10 is preferably applied in an orientation such that the side of lath 10 bearing second longitudinal wires 13 faces the framing members," '387 Patent, col. 7, lines 15-17.

"More than one longitudinal wire 13 may be provided on each truss 15. If two closely-spaced longitudinal wires 13 are provided on each truss 15 then lath 10 may be fastened to a building structure with fasteners such as nails or screws inserted between the two longitudinal wires 13." '387 Patent, col. 7, lines 56-60.

The trusses must be inwardly projecting to provide the "self-furring" aspect of the invention. *See, e.g.,* ABSTRACT ("A self-furring wire lath has stiffening trusses."); col. 4, lines 21-23; col. 6, lines 45-49. The inwardly extending orientation of the V-shaped impressions is the antithesis of Applicant's claimed invention.

"A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983). In order to make out a prima facie case of obviousness, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1970). With respect to the dependent claims, Applicant respectfully submits that if an independent claim is free of the art, then any claim depending therefrom is also free of the art. *In re Fine*, 5 USPQ.2d 1596 (Fed. Cir. 1988). In view of the foregoing, Applicant respectfully submits that claims 1-6, 8, 10, 12 and 13 of the present invention are patentable over the art of record. Accordingly, Applicant respectfully submits that reconsideration and withdrawal of the outstanding rejection is proper and such action is respectfully requested.

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PATENT

CONCLUSION

Applicant now believes the present application is in a condition for allowance and early notification of the same is respectfully requested. If the Examiner believes that the prosecution could be advanced through a telephone conversation, then the Examiner is invited to telephone the undersigned.

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